

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

DAVID ERWIN

PLAINTIFF

v.

No. 3:18-cv-73-DPM

**GREENE COUNTY, ARKANSAS;
and JOHN DOE 4, Deputy, Greene
County Sheriff's Department**

DEFENDANTS

ORDER

1. Erwin's timely motion to reconsider, *No. 11*, is granted as modified.

2. This case is solely about the 20 March 2018 traffic stop, not what may have happened at the Greene County jail in February 2018. Erwin noted that an unidentified Greene County deputy sheriff made the stop. *No. 1 at 8*. But the Court thought Erwin's claims were focused on the Paragould officers involved and a state trooper. *No. 4*. Erwin didn't clarify things when the Court screened his complaint and requested names and addresses for service. *No. 6*. Erwin settled with Paragould and its officers. *No. 7 & No. 9*. Trooper McGraw was never served because Erwin didn't provide McGraw's address. The Court entered Judgment accordingly. *No. 10*. Erwin now says the Greene County folks were the main wrongdoers.

3. The Court reopens this case and vacates its Judgment, *No 10*. The settlement with Paragould remains in force, as does the Court's dismissal without prejudice of Trooper McGraw.

4. Erwin's allegations are pleaded against the Greene County Sheriff's Department, but that's not a separate entity subject to suit. *Ketchum v. City of West Memphis, Arkansas*, 974 F.2d 81, 82 (8th Cir. 1992). For that reason, the Court construes any official-capacity claims against the Department as claims against the County. These claims are dismissed without prejudice, though, because Erwin hasn't alleged an unconstitutional custom or policy.

5. Erwin's complaint alleges unreasonable search and seizure. The Court construes these allegations as an individual-capacity claim against the unnamed deputy sheriff. He or she will be John Doe 4 for now. The Court directs the Clerk to update the docket. Erwin must provide a complete name and address for service as soon as he can, and no later than 27 July 2018. If he doesn't, then the Court will dismiss his claim against the deputy sheriff without prejudice.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

10 July 2018